

APPENDIX

1. Plaintiff's Original Petition.
2. Citation.
3. Docket Sheet from State Court (will supplement).
4. Defendants' Original Answer.
5. Defendants' Jury Demand.

3/10/2015 2:58:13 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-15-000920

D-1-GN-15-000920

CAUSE NO. _____

IRVIN BANOS,
Plaintiff,

IN THE DISTRICT COURT

VS.

TRAVIS COUNTY, TEXAS

TORRY STEVENSON AND
BIG M TRANSPORTATION, INC.,
Defendants

53RD JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, JURY DEMAND, AND REQUEST FOR
DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES IRVIN BANOS, hereinafter referred to as "Plaintiff", and files this Plaintiff's Original Petition complaining of TORRY STEVENSON and BIG M TRANSPORTATION, INC., hereinafter referred to as "Defendant STEVENSON" and "Defendant BIG M", respectively, and would respectfully show as follows:

I.

DISCOVERY PLAN LEVEL

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169. Plaintiff seeks monetary relief over \$100,000.

II.

PARTIES

2. Plaintiff is an individual resident of Austin, Travis County, Texas. Plaintiff has not been issued a Texas driver's license or a social security number.

3. Defendant TORRY STEVENSON is an individual resident of Aberdeen, Mississippi, and resides at 412 Pullen Drive, Aberdeen, Mississippi 39730. Pursuant to Texas Civil Practice & Remedies Code Section 17.062(a), service may be made upon this Defendant by serving the chairman of the Texas Transportation Commission. Issuance of citation is requested at this time.

4. Defendant BIG M is a corporation doing business in Texas, which may be served

through its Registered Agent B. Sean Akins at 108 E. Jefferson Street Ripley, MS 38663 or any other place he or she may be found. Issuance of citation is requested at this time.

III.

JURISDICTION AND VENUE

5. This court has jurisdiction over this case and venue is proper in Travis County, Texas, because all or a substantial part of the events giving rise to the cause of action occurred here.

6. The Court has personal jurisdiction over Defendant TORRY STEVENSON, a nonresident, pursuant to CPRC §§ 17.061-17.069 because defendant operated a motor vehicle in Texas that was involved in a collision or accident.

7. The Court has personal jurisdiction over Defendant BIG M, a nonresident, because Defendant committed a tort, which is the subject of this suit, in whole or in part in Texas. Specifically, Defendant TRUCKING COMPANY's employee and/or agent drove in a negligent manner on June 27, 2013 in Austin, Travis County, Texas. Plaintiff further refers to the allegations contained herein and references same as facts establishing jurisdiction in Texas.

8. Damages sought are within the jurisdictional limits of this Court. Plaintiff seeks: monetary relief over \$200,000 but not more than \$1,000,000.

IV.

FACTUAL BACKGROUND

9. This is a suit for negligence. On or about, June 27, 2013, Plaintiff IRVIN BANOS was driving a 2001 Ford F150 which was traveling northbound on S Interstate 35 in Austin, Travis County, Texas. Defendant STEVENSON was driving a 2012 Freightliner Tractor, which was also traveling northbound on S Interstate 35, when he failed to maintain an assured clear distance, causing him to rear end the vehicle driven by Plaintiff. As a result of the collision, Plaintiff sustained serious personal bodily injuries.

V.

CAUSES OF ACTION

10. Defendant STEVENSON had common-law and statutory duties to use ordinary care in the operation of his vehicle. He negligently breached those duties and that negligence proximately caused injury and damage to Plaintiff. Specifically, Defendant STEVENSON was negligent in the following particulars:

- a. failing to keep a proper lookout;
- b. failing to control his speed.
- c. failing to maintain an assured clear distance from the vehicle in front of him;
- d. failing to take proper evasive action so as to avoid a collision;
- e. failing to timely apply his brakes so as to avoid a collision; and
- f. in all things failing to act as a reasonable person using ordinary care in the same or similar circumstances.

VI.

RESPONDEAT SUPERIOR

11. At the time of Plaintiff's injuries, Defendant STEVENSON was the agent, servant, or employee of Defendant BIG M, was driving a vehicle owned by Defendant BIG M, and was acting within the course and scope of his employment for Defendant BIG M. Therefore, pursuant to the doctrine of *respondeat superior*, Defendant BIG M is liable for the negligent acts of Defendant STEVENSON.

VII.

DAMAGES

12. Because of his bodily injuries and other damages proximately caused by Defendant's negligence, Plaintiff IRVIN BANOS is entitled to reasonable and proper compensation for the following legal damages:

- a. past and future medical expenses;
- b. past and future physical pain and mental anguish;

- c. past and future physical impairment.
- d. past and future lost earning capacity.

VIII.

REQUEST FOR DISCLOSURES

13. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the service of this Plaintiff's Requests for Disclosure to Defendant. Additional discovery is also being served with this Petition, including Plaintiff's Request for Production to Defendant, Plaintiff's First Set of Interrogatories to Defendant, and Plaintiff's First Request for Admissions to Defendant.

IX.

JURY DEMAND

14. Pursuant to Texas Rule of Civil Procedure 216, Plaintiff requests a trial by jury and would show that the appropriate fee is paid contemporaneously with the filing of this Petition.

X.

PRAYER

Plaintiff prays that he have judgment against Defendants, jointly and severally, for actual damages shown and proved at trial, for prejudgment and post-judgment interest, for costs of court and for all other relief, legal and equitable, to which he is entitled.

Respectfully submitted,

LORENZ & LORENZ, L.L.P.

Melissa White

MELISSA WHITE

State Bar No.: 24065008

mwhite@lorenzandlorenz.com

ELIZABETH SHEHAN

State Bar No. 24083726

eshehan@lorenzandlorenz.com

1705 S. Capital of Texas Hwy, Ste 401

Austin, Texas 78746

Telephone: (512) 477-7333

Facsimile: (512) 477-1855
ATTORNEYS FOR PLAINTIFF

Civil Action No. 1:15-cv-301

C I T A T I O N

T H E S T A T E O F T E X A S

CAUSE NO. D-1-GN-15-000920

IRVIN BANOS

, Plaintiff

vs.

TERRY STEVENSON AND BIG M TRANSPORTATION, INC.

, Defendant

TO: BIG M TRANSPORTATION INC
 BY SERVING THROUGH ITS REGISTERED AGENT
 B SEAN AKINS
 108 E JEFFERSON STREET
 RIPLEY, MISSISSIPPI 38663 "OR"
 ANY OTHER PLACE HE OR SHE MAY BE FOUND

CERTIFIED MAIL #7014 3490 0000 6725 0150

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the ORIGINAL PETITION, JURY DEMAND, AND REQUEST FOR DISCLOSURE of the PLAINTIFF in the above styled and numbered cause, which was filed on MARCH 10, 2015 in the 53RD JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, March 11, 2015.

REQUESTED BY:

MELISSA BETH WHITE
 LORENZ & LORENZ, LLP
 1705 S. CAPITAL OF TEXAS HWY, SUITE 401
 AUSTIN, TX 78746
 BUSINESS PHONE: (512) 477-7333 FAX: (512) 477-1855



[Signature]
 Velva L. Price
 Travis County District Clerk
 Travis County Courthouse
 1000 Guadalupe, P.O. Box 679003 (78767)
 Austin, TX 78701

PREPARED BY: WINKLER PATRICIA

R E T U R N

Came to hand on the _____ day of _____, _____ at _____ o'clock _____ M., and executed at _____ within the County of _____ on the _____ day of _____, _____, at _____ o'clock _____ M., by delivering to the within named _____, each in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION, JURY DEMAND, AND REQUEST FOR DISCLOSURE, FIRST REQUEST FOR ADMISSIONS, AND FIRST SET OF INTERROGATORIES accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ _____

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the _____

By: _____

_____ day of _____, _____

Printed Name of Server_____
Notary Public, THE STATE OF TEXAS_____
County, Texas

D-1-GN-15-000920

DISTRICT CLERK CERTIFIED MAIL

P01 - 000028100



Original



Service Copy

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CAUSE NO. D-1-GN-15-000920

IRVIN BANOS	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
TORRY STEVENSON AND	§	
BIG M TRANSPORTATION, INC.,	§	
Defendants.	§	53 RD JUDICIAL DISTRICT

DEFENDANTS' ORIGINAL ANSWER

Now come TORRY STEVENSON AND BIG M TRANSPORTATION, INC., Defendants, and file this their Original Answer, and for such would respectfully show unto the Court as follows:

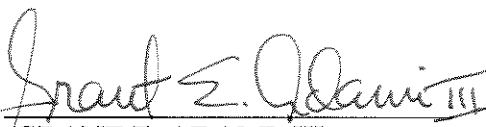
I.

Defendants deny generally the allegations contained in Plaintiff's Original Petition, and ask for a trial of the issues before a jury.

WHEREFORE, PREMISES CONSIDERED, Defendants pray for judgment and general relief.

Respectfully submitted,

ADAMI, SHUFFIELD, SCHEIHING & BURNS, P.C.
SWBC Tower
9311 San Pedro, Suite 900
San Antonio, Texas 78216
Telephone: (210) 344-0500
Telecopier: (210) 344-7228
tadami@adamilaw.com

By: 
GRANT E. ADAMI, III
State Bar No. 00845400

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on this 10th day of April, 2015, a true copy of the foregoing has been forwarded by facsimile and/or mailed to:

Melissa White
mwhite@lorenzaandlorenz.com
Elizabeth Shehan
eshehan@lorenzandlorenz.com
LORENZ & LORENZ, L.L.P.
1705 S. Capital of Texas Hwy, Suite 401
Austin, Texas 78746
Facsimile: (512) 477-1855

ATTORNEYS FOR PLAINTIFF


GRANT E. ADAMI, III

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CAUSE NO. D-1-GN-15-000920

IRVIN BANOS
Plaintiff,

VS.

TORRY STEVENSON AND
BIG M TRANSPORTATION, INC.,
Defendants.

§
§
§
§
§
§
§

IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

53RD JUDICIAL DISTRICT**DEMAND FOR JURY**

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Defendants, TORRY STEVENSON AND BIG M TRANSPORTATION, INC.,
and make this demand for a jury trial in this cause. The jury fee is tendered herewith.

Respectfully submitted,

ADAMI, SHUFFIELD, SCHEIHING & BURNS, P.C.
SWBC Tower
9311 San Pedro, Suite 900
San Antonio, Texas 78216
Telephone: (210) 344-0500
Telecopier: (210) 344-7228
tadami@adamilaw.com

By:


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